

WILLIE J. LUCKETT, JR.,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:93CV1165 RWS
	)	
DON ROPER,	)	
	)	
Respondent.	)	

Nearly ten years after his petition for federal habeas relief was denied, petitioner moves the Court under Fed. R. Civ. P. 60(b) to vacate the state criminal conviction arguing that the state court did not have jurisdiction over him. Petitioner's motion is frivolous because a state prisoner may not attack the legality of his state court conviction through Rule 60(b); any attack on a state court conviction must be made through 28 U.S.C. § 2254. Additionally, even if the Court were to construe the motion as a petition for writ of habeas corpus, the motion would be denied because petitioner has not filed a motion in the United States Court of Appeals for the Eighth Circuit for permission to seek a successive writ of habeas corpus as is required under 28 U.S.C.

§ 2244(b)(3). Consequently, the motion for relief from judgment will be denied with prejudice.

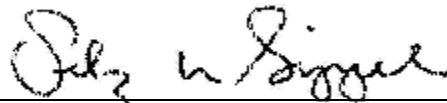
Because the motion for relief from judgment will be denied, petitioner's motion to withdraw the motion for relief from judgment is moot.

Accordingly,

**IT IS HEREBY ORDERED** that petitioner's motion for relief from judgment [#85] is **DENIED** with prejudice.

**IT IS FURTHER ORDERED** that petitioner's motion to withdraw [#87] is **DENIED** as moot.

Dated this 3 Day of October, 2007.

A handwritten signature in cursive script, appearing to read "Rodney W. Sippe", written in black ink.

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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE